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N. H.

in opinion

August 23, 1955

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CONCORD, N.H.

Adelard E. Cote, Commissioner
Department of Labor
Concord, New Hampshire

Dear Mr. Cote:

Reference is made to your communication of August 10 regarding the validity of a lump sum settlement where the employee has deceased and compensation up to the time of the employee's death amounted to \$3,840.00. We understand that the proposed settlement figure is \$3,400.00, that an appeal is currently pending before the Supreme Court and that the aforementioned sum of \$3,840.00 has not been paid to the employee.

In discussing your communication with Miss Morgan I learned that the principal cause for your concern is the fact that the employee in question had deceased leaving no statutory dependents as enumerated in the Act (section 1, VII).

Please be advised that in the opinion of this office the rule of Diamond v. Employers, 97 N. H. 510, is not applicable in a case such as this where the compensation in question had accrued prior to the time of death of the employee and this happening is no bar to your approving a lump sum settlement if you otherwise believe that it is in the best interest of all concerned.

Very truly yours,

Elmer T. Bourque
Law Assistant

ETR/aml